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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,689	10/11/2001	Niko Canner	056732/00004	9226

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EXAMINER

GYORFI, THOMAS A

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/975,689

Applicant(s)

CANNER ET AL.

Examiner

Tom Gyorf

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

AT

### **DETAILED ACTION**

1. Claims 1, 3, and 5-33 remain for examination. The correspondence filed 8/11/05 amended claims 1, 9, 22, 23, 28, and 30.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/11/05 has been entered.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3, and 5-33 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant argues, "*First, Sheehan does not apply responses to a plurality of rules so that each rule has one satisfied state and one unsatisfied state.*" Examiner disagrees with this contention. One aspect of the Tree-Based estimation strategy is the use of rules to evaluate responses, such as those disclosed in col. 10, lines 40-60. The rules disclosed therein clearly have a satisfied state (when  $x_i = 0$  and when  $x_i = 1$ , respectively) and an unsatisfied state (when  $x_i \neq 0$  and when  $x_i \neq 1$ , respectively).

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 3, and 5-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan (U.S. Patent 6,144,838), and further in view of Driscoll et al. (U.S. Patent 5,987,302).

Referring to Claims 1, 9, 22, 28 and 30:

Sheehan discloses a method of conducting an assessment of an evaluatee, comprising:

presenting a plurality of queries regarding an evaluatee to an entity (col. 5, lines 45-55);

receiving a response to each of the plurality of queries (col. 5, line 60-col. 6, line 10);

applying the responses to a plurality of rules so that each rule has one of a satisfied state and an unsatisfied state, a portion of the plurality of rules being interdependent (col. 5, lines 35-45; col. 6, lines 30-45; col. 7, lines 5-40; col. 10, lines 40-60);

generating individualized feedback items based on the state of the plurality of rules, each feedback item being associated with at least one of the plurality of rules having the satisfied state (col. 9, lines 45-60; col. 24, lines 5-55);

transmitting the feedback items to an entity (col. 23, lines 30-45; Fig. 6),

wherein the plurality of queries seek information as to the strengths and weaknesses of the evaluatee as to one or more identified performance areas (col. 8, lines 56-62; Fig. 6).

Sheehan is apparently silent regarding specifically to whom the results generated by the disclosed method are transmitted. However, Sheehan does disclose that preferred embodiments of this invention include analyzing results for the SAT and the GRE (col. 8, lines 35-50; see also cols. 19 and 20), both of which are well known to return results to an evaluatee. Furthermore, Sheehan also suggests that in the general case it is advantageous to return individualized results to an evaluatee, in order to allow one to plan for enrollment in future courses as one example (col. 1, lines 45-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to transmit the feedback items to the evaluatee, so that the evaluatee can react appropriately to, and benefit from, the diagnosis (col. 1, lines 42-48).

Sheehan does not explicitly disclose wherein said individualized feedback items include at least one specific action that an evaluatee should take to correct a particular problem or accomplish a given performance goal. However, Driscoll discloses a method of evaluation that includes this limitation (Driscoll, Fig. 28 and col. 4, lines 30-45). It would have been obvious to tailor the feedback regarding an evaluatee to include personalized corrective actions into the system disclosed by Sheehan. Driscoll teaches that doing so is an improvement over known prior art evaluation systems that merely provide an overall score without further explanation, and that scores-only evaluation systems may lack consistency (Driscoll, col. 2, lines 50-65).

Referring to Claim 3:

Sheehan and Driscoll disclose the limitation of Claim 1 above. Sheehan further discloses the entity is a group one or more persons (col. 5, lines 30-35).

Referring to Claim 5:

Sheehan and Driscoll disclose the limitation of Claim 1 above. Sheehan further discloses a host computer presents the plurality of queries and transmits the feedback items to the evaluatee (col. 23, lines 30-45).

Referring to Claim 6:

Sheehan and Driscoll disclose the limitation of Claim 1 above. Sheehan further discloses the plurality of rules include mathematical formulae (col. 25, lines 5-30).

Referring to Claim 7:

Sheehan and Driscoll disclose the limitation of Claim 1 above. Sheehan further discloses the plurality of rules include Boolean operations (col. 26, lines 45-55).

Referring to Claim 8:

Sheehan and Driscoll disclose the limitation of Claim 7 above. Sheehan further discloses ones of the plurality of rules use output from other of the plurality of rules (col. 28, lines 20-45).

Referring to Claim 10:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the memory includes a query database storing the plurality of queries (col. 8, lines 30-50).

Referring to Claim 11:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the memory includes a rules database storing the plurality of rules (col. 26, lines 55-65).

Referring to Claim 12:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the memory stores the responses to the plurality of queries (col. 8, lines 30-50).

Referring to Claim 13:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the user computer includes a display to display the feedback items (col. 14, line 65-col. 15, line 30).

Referring to Claim 14:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the plurality of rules include a Boolean operation, a true condition of the Boolean operation corresponding to the satisfied state and a false condition of the Boolean operation corresponding to the unsatisfied state (col. 20, lines 20-55).

Referring to Claim 15:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the communications link includes one of a dialup connection, a wireless network connection, a local area network, a wide area network, fiber optic connection and an Internet connection (col. 24, lines 15-25).

Referring to Claim 16:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the memory includes computer executable code identifying an additional set of queries to be presented to the entity as a function of a predetermined response to at least one of the plurality of the plurality of queries (col. 13, line 5-50).

Referring to Claim 17:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the queries include one of a statement and a question (Fig. 2A).



Referring to Claim 18:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the computer executable code transmitting the feedback items to the user computer includes links to additional resources related to a respective feedback item (col. 13, lines 35-60).

Referring to Claim 19:

Sheehan and Driscoll disclose the limitation of Claim 18 above. Sheehan further discloses the links include one of a hyperlink or URL and an identification of one or more additional resources (col. 13, lines 35-60).

Referring to Claim 20:

Sheehan and Driscoll disclose the limitation of Claim 19 above. Sheehan further discloses hyperlink includes identification of a universal resource locator and the additional resource includes publication (col. 13, lines 35-60).

Referring to Claim 21:

Sheehan and Driscoll disclose the limitation of Claim 9 above. Sheehan further discloses the entity includes one of an individual and a group (col. 5, lines 30-40).

Referring to Claim 23:

Sheehan discloses a method of conducting an assessment of an evaluatee, comprising:

presenting a plurality of queries to an entity regarding an evaluatee (col. 5, lines 45-55);

receiving a response to each of the plurality of queries (col. 5, line 60-col. 6, line 10);

applying the responses to a plurality of rules so that each rule has one of a satisfied state and an unsatisfied state, a portion of the plurality of rules being interdependent (col. 5, lines 35-45; col. 6, lines 30-45; col. 7, lines 5-40);

generating individualized feedback items based on the state of the plurality of rules, each feedback item being associated with at least one of the plurality of rules having the satisfied state (col. 9, lines 45-60; col. 24, lines 5-55);; and

transmitting the feedback items [to the evaluatee: see rejection of claim 1 for obviousness/motivation], at least one of the feedback items including a link to an additional resource associated with the feedback item, wherein the plurality of rules results in at least a first comparative indicator and at least a second comparative indicator, the first comparative indicator representing an ideal situation for the evaluatee, and the second comparative indicator representing a current situation for the evaluatee (col. 23, lines 30-45; Fig. 6; col. 13, lines 30-55).

Sheehan does not explicitly disclose wherein said individualized feedback items include at least one specific action that an evaluatee should take to correct a particular

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problem or accomplish a given performance goal. However, Driscoll discloses a method of evaluation that includes this limitation (Driscoll, Fig. 28 and col. 4, lines 30-45). It would have been obvious to tailor the feedback regarding an evaluatee to include personalized corrective actions into the system disclosed by Sheehan. Driscoll teaches that doing so is an improvement over known prior art evaluation systems that merely provide an overall score without further explanation, and that scores-only evaluation systems may lack consistency (Driscoll, col. 2, lines 50-65).

Referring to Claim 24:

Sheehan and Driscoll disclose the limitation of Claim 23 above. Sheehan further discloses the first comparative indicator includes two comparative indicators used to determine the ideal situation and the second comparative indicator includes two comparative indicators used to determine the current situation (Fig. 6).

Referring to Claim 25:

Sheehan and Driscoll disclose the limitation of Claim 24 above. Sheehan further discloses the feedback items include at least one feedback item based on a comparison between the ideal situation and the current situation (Fig. 6).

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Referring to Claim 26:

Sheehan and Driscoll disclose the limitation of Claim 24 above. Sheehan further discloses displaying a comparison of the ideal situation and the current situation (Fig. 6).

Referring to Claim 27:

Sheehan and Driscoll disclose the limitation of Claim 23 above. Sheehan further discloses the plurality of queries relate to one of an individual assessment and a group assessment (col. 5, lines 30-60).

Referring to Claim 29:

Sheehan and Driscoll disclose the limitation of Claim 23 above. Sheehan further discloses a storage medium coupled to the CPU, the storage medium including at least one database and storing the plurality of queries, the plurality of rules and the feedback item (col. 24, lines 15-30).

Referring to Claim 31:

Sheehan and Driscoll disclose the limitations of Claim 1 above. Sheehan further discloses wherein said theory-based individualized feedback reflects one or more management or group dynamics theories or schools of thought (col. 2, lines 1-60; col. 6, lines 20-45; col. 7, lines 50-67; col. 8, lines 35-50).

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7. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan and Driscoll as applied to claim 1 above, and further in view of Nichols et al. (U.S. Patent 5,987,443).

Referring to Claim 32:

Sheehan and Driscoll disclose the limitations of Claim 1 above. Sheehan and Driscoll are silent regarding the limitation wherein the theory-based individualized feedback includes one or more links to tools that address diagnosed deficiencies. However, Nichols discloses this limitation (col. 28, lines 17-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include one or more links to auxiliary tools that address diagnosed deficiencies into the invention disclosed by Sheehan. The motivation for doing so would be to conveniently provide means for an evaluatee to take appropriate action regarding the results of one's evaluation, increasing the effectiveness of the feedback (Nichols, col. 28, lines 55-57).

Referring to Claim 33:

Sheehan and Driscoll in view of Nichols discloses or suggests the limitations of Claim 32. Nichols further discloses that the tools comprise a method of conducting an assessment of an evaluatee (col. 29, lines 1-9). It should be noted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the tools found in Nichols in accordance with the method disclosed in Sheehan. The motivation would be that the Sheehan disclosure, as noted in the rejection of claim 1, is

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very well suited for analyzing a student's work to identify problem areas and deliver focused feedback, which is a requirement for the tools disclosed by Nichols (col. 29, lines 4-6).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent 5,991,595 issued to Romano et al.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Gyorfi whose telephone number is (571) 272-3849. The examiner can normally be reached on 8:30am - 5:00pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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10/03/05

*Handwritten signature*  
Primary Examiner  
Art Unit 2135